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8 Counsel for Petitioner James Anthony Davis.

9 UNITED STATES DISTRICT COURT
10 DISTRICT OF NEVADA

11 JAMES ANTHONY DAVIS,

12 Petitioner,

13 v.

14 D.W. NEVEN, et al.,

15 Respondents.

Case No. 2:15-cv-01574-RFB-NJK

**Unopposed Motion for Extension of
Time to File Opposition to Motion to
Dismiss**

(First Request)

16
17 Petitioner James Anthony Davis moves this Court for an extension of time of
18 90 days from May 8, 2018 to, and including, August 6, 2018, to file an opposition to
19 Neven's motion to dismiss. This motion is based on the attached points and
20 authorities and the record in this case.

21 **POINTS AND AUTHORITIES**

22 1. On December 12, 2003, the state charged Davis with murder. Upon
23 entry of his guilty plea, the court sentenced him to 20 years to life. The Nevada
24 Department of Corrections houses Davis at Lovelock Correctional Center.

25 2. Davis filed a counseled amended petition on August 24, 2017 after
26 seeking four extensions of time. In his requests, Davis acknowledged that his
petition was late. *See* ECF Nos. 18, 24.

1 3. On April 24, 2018, Neven filed a motion to dismiss after seeking a
2 similar number of extensions. *See* ECF Nos. 42, 44, 46, 48, 51. In it, he seeks to
3 dismiss Davis's petition as untimely. Neven alleges that Davis's petition is at least
4 six years late, but may be as many as 8 years late. ECF No. 51.

5 4. This Court did not set a specific period of time for Davis to respond to
6 Neven's motion, but rather invoked the local rules. ECF No. 39 at 1. Under the
7 rules, Davis's response is due just two weeks later, or by May 8, 2018. *See* Local
8 Rule 7-2.

9 5. Counsel recently learned Davis has undergone medical treatment that
10 may relate to her anticipated equitable tolling argument. Accordingly, today she
11 requested updated medical records from the Nevada Department of Corrections.
12 The requested extension allows time for the Department of Corrections, in
13 conjunction with the AG's office, to examine and fulfill counsel's request, which may
14 take several weeks. It also permits counsel time to receive the records, review them
15 and possibly consult with her expert, before crafting Davis's opposition.

16 6. The additional period of time is necessary in order to effectively and
17 thoroughly represent Davis. This motion is not filed for the purposes of delay but in
18 the interests of justice, as well as in Davis's interests.

19 7. On April 4, 2018, undersigned counsel e-mailed Chief Deputy Attorney
20 General Heidi Stern about this request, who reported that she had no objection to
21 this request.

22 8. For the reasons above, as well as the record in this case, Davis asks
23 this Court to grant his request for an extension of time to file the amended petition
24 and order the amended petition to be filed on or before August 6, 2018.
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26


1 Dated this 4th day of May, 2018.

2 Respectfully submitted,

3 RENE L. VALLADARES
4 Federal Public Defender

5 /s/ Amelia L. Bizzaro
6 AMELIA L. BIZZARO
7 Assistant Federal Public Defender

8 IT IS SO ORDERED:

9 
10 _____
11 RICHARD F. BOULWARE, II
12 UNITED STATES DISTRICT JUDGE
13 DATED this 7th day of May, 2018.

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Participants in the case who are registered CM/ECF users will be served by the CM/ECF system and include: HEIDI PARRY STERN.

James Anthony Davis
No. 81111
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419

/s/ Jessica Pillsbury
An Employee of the
Federal Public Defender,
District of Nevada